

Effective 6/24/2022

Chapter 7a Abortion Prohibition

Part 1 Definitions

76-7a-101 Definitions.

As used in this chapter:

- (1)
 - (a) "Abortion" means:
 - (i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;
 - (ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or
 - (iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.
 - (b) "Abortion" does not include:
 - (i) removal of a dead unborn child;
 - (ii) removal of an ectopic pregnancy; or
 - (iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:
 - (A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and
 - (B) the physician is unable to obtain the consent due to a medical emergency.
- (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.
- (3) "Department" means the Department of Health.
- (4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.
- (5) "Hospital" means:
 - (a) a general hospital licensed by the department; or
 - (b) a clinic or other medical facility to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.
- (6) "Incest" means the same as that term is defined in Section 80-1-102.
- (7) "Medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.
- (8) "Physician" means:
 - (a) a medical doctor licensed to practice medicine and surgery in the state;
 - (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

- (c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection (8)(a) or (b).
- (9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.
- (10)
 - (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.
 - (b) "Severe brain abnormality" does not include:
 - (i) Down syndrome;
 - (ii) spina bifida;
 - (iii) cerebral palsy; or
 - (iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Amended by Chapter 262, 2021 General Session

Part 2

Prohibition

76-7a-201 Abortion prohibition -- Exceptions -- Penalties.

- (1) An abortion may be performed in this state only under the following circumstances:
 - (a) the abortion is necessary to avert:
 - (i) the death of the woman on whom the abortion is performed; or
 - (ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;
 - (b) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:
 - (i) has a defect that is uniformly diagnosable and uniformly lethal; or
 - (ii) has a severe brain abnormality that is uniformly diagnosable; or
 - (c)
 - (i) the woman is pregnant as a result of:
 - (A) rape;
 - (B) rape of a child; or
 - (C) incest; and
 - (ii) before the abortion is performed, the physician who performs the abortion:
 - (A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law enforcement; and
 - (B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.
- (2) An abortion may be performed only:
 - (a) by a physician; and
 - (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.
- (3) A person who performs an abortion in violation of this section is guilty of a second degree felony.

- (4) In addition to the penalty described in Subsection (3), the department may take appropriate corrective action against an abortion clinic, including revoking the abortion clinic's license, if a violation of this chapter occurs at the abortion clinic.
- (5) The department shall report a physician's violation of any provision of this section to the state entity that regulates the licensing of a physician.

Enacted by Chapter 279, 2020 General Session

Part 3

Superseding Clause

76-7a-301 Superseding clause.

If, at the time this chapter takes effect, any provision in the Utah Code conflicts with a provision of this chapter, the provision of this chapter supersedes the conflicting provision.

Enacted by Chapter 279, 2020 General Session